

**IN THE UNITED STATES DISTRICT COURT
OF THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

LANNIE BAIRD

§

VS.

§

CIVIL ACTION NO. 5:04cv219

**COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION**

§

MEMORANDUM ORDER

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. The Report of the Magistrate Judge which contains her proposed findings of fact and recommendations for the disposition of such action has been presented for consideration. Plaintiff filed objections to the Report and Recommendation. The Court conducted a *de novo* review of the Magistrate Judge's findings and conclusions.

Plaintiff objects to the Magistrate Judge's recommendation that Plaintiff's above-entitled and numbered social security cause of action be affirmed. Specifically, Plaintiff asserts the Report and Recommendation does not take into account the medical report documents that Plaintiff had severe pain throughout her body and that Plaintiff suffers from depression. Plaintiff further objects to the Report and Recommendation because it does not recognize that Plaintiff's limitations under the vocational expert's opinion would exclude all jobs in the national economy; Plaintiff does not have the residual functional capacity to perform jobs existing in significant numbers in the economy and that the vocational expert so testified on cross-examination. Finally, Plaintiff objects to the Report and Recommendation because Plaintiff testified she would have to be absent from work for more than two days out of a month, making it impossible for Plaintiff to hold any gainful employment.

After reviewing the transcript, the briefs of the parties, and the Report and Recommendation, the Court finds Plaintiff's objections are without merit. The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is hereby

ORDERED that the above-entitled Social Security action is **AFFIRMED**.

SIGNED this 22nd day of December, 2005.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE